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RCE, etc.
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PATENT
B208-346 DIV

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Kenichi Nagasawa et al

Serial No.: 09/437,694

For: SIGNAL RECORDING APPARATUS

Filed: November 10, 1999

Examiner: H. Nguyen

Art Unit: 2615

Commissioner for Patents
Washington, D.C. 2023

Sir:

PETITION TO WITHDRAW REQUEST FOR CONTINUED EXAMINATION AND THREE MONTH EXTENSION OF TIME REQUEST

This Petition is being filed to request that the applicants' Request For Continued Examination ("RCE") filed in the above-identified application on April 10, 2002 be withdrawn.

Applicants also request that the Amendment filed March 22, 2002, as a response to a final Office Action, be treated as a response to a non-final Action and that a new Office Action be issued in response thereto. As seen from the facts stated below, an Office Action should have been issued in the application in response to the March 22nd Amendment, and not the March 27, 2002 Advisory Action that was issued by the U.S. Patent and Trademark Office.

More particularly, on September 17, 2001, applicants filed an Amendment After Final

I hereby certify that this correspondence is being faxed to the U.S. Patent and Trademark Office to facsimile number (703) 746-5735 on the date shown below:
July 25, 2002

MARYLEE JENKINS
July 25, 2002
Date of Signature

MARYLEE JENKINS
Signature

in response to a final Office Action mailed April 25, 2001. An Advisory Action was mailed September 25, 2001, indicating that the Amendment After Final would not be entered. On October 5, 2001, applicants filed a Continued Prosecution Application. The Amendment After Final filed September 17, 2001 was entered, and a non-final Office Action was mailed October 23, 2001.

On March 22, 2001, applicants filed an Amendment in response to the non-final Office Action. However, the Amendment was improperly entitled "Amendment Under 37 CFR 1.116" ("March 22nd Amendment"). It is further noted that at the time this March 22nd Amendment was filed, a Two Month Extension of Time Request was also filed along with the appropriate fee of \$400, which was charged to our firm credit card number by submitting the appropriate credit card form. In response on March 27, 2002, the Examiner improperly mailed an Advisory Action indicating that the March 22nd Amendment did not place the application in condition for allowance and would not be entered. In response to the Examiner's Advisory Action, an RCE was then filed April 10, 2002 along with a Three Month Extension of Time Request with the appropriate fee of \$520 (\$920-\$400), which was also charged to our firm credit card number by submitting the appropriate credit card form.

A "Notice of Improper Request for Continued Examination (RCE)" was subsequently mailed April 16, 2002 by the U.S. Patent and Trademark Office. Since April 2002, counsel for applicants have had many telephone conferences with Examiner Nguyen assigned to the above application as well as his supervisors in order to try and resolve this problem and correct the procedural history in this application.

In the most recent communication with Examiner Christensen, on July 17, 2002, he indicated that applicants should file a Petition to Withdraw the Request for Continued Examination and Three Month Extension of Time Request and may further request that the March 22nd Amendment be treated as a response to a non-final Office Action and that the Advisory Action mailed March 27, 2002 be withdrawn. Examiner Christensen further advised that he will direct Examiner Nguyen to consider the improperly filed March 22nd Amendment as a response to a non-final Office Action and will issue an Office Action in response thereto.

Under these circumstances and pursuant to the rules of the U.S. Patent and Trademark Office, an Office Action should have been issued in the application in response to the filed March 22nd Amendment. Accordingly, it is requested that the RCE and Fee along with the Three Month Extension of Time Request and Fee filed April 10, 2002 be withdrawn and refunded accordingly and that an Office Action in response to the March 22nd Amendment, as an Amendment in response to a non-final Office Action, and a communication withdrawing the Advisory Action of March 27, 2002 be issued.

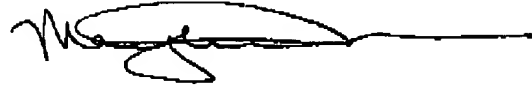
Applicants are further requesting, in a separately filed paper, a refund of the filing fee and Three Month Extension of Time Fee associated with the filed RCE. Applicants additionally request that the fee for this Petition (\$130) be waived. However, if the fee is not waivable, please charge the fee (\$130) for the Petition to the credit card number submitted in the credit card payment form enclosed. If any additional fees are necessary, authorization is also provided to charge our Deposit Account No. 18-1644.

Finally, applicants request that the information relating to this application in the PAIR system be corrected to delete all incorrect entries and to reflect the withdrawal of the Advisory Action, RCE and Three Month Extension of Time filed in the application.

Your assistance in this matter is greatly appreciated. Please do not hesitate to contact me if you require additional information concerning this matter.

Dated: July 25, 2002

Respectfully submitted,



ROBIN, BLECKER & DALEY
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T (212) 682-9640

Marylee Jenkins
Reg. No. 37,645
An Attorney of Record



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/437,694	11/10/1999	KENICHI NAGAWASA	B208-346 DIV	8328

26272 7590 04/16/2002

ROBIN BLECKER & DALEY
2ND FLOOR
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NEW YORK, NY 10017

EXAMINER

NGUYEN, HUY THANH

ART UNIT

PAPER NUMBER

2615

DATE MAILED: 04/16/2002

Please find below and/or attached all Office communication concerning this application or proceeding.

RECEIVED**APR 22 2002****ROBIN, BLECKER & DALEY**



Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

APPLICATION NUMBER

FILING DATE

FIRST NAMED APPLICANT

ATTY. DOCKET NO./TITLE



DATE MAILED:

NOTICE OF IMPROPER REQUEST FOR CONTINUED EXAMINATION (RCE)

The request for continued examination (RCE) under 37 CFR 1.114 filed on 4-10-02 is improper for reason(s) indicated below:

- ☐ 1. Continued examination under 37 CFR 1.114 does not apply to an application for a design patent. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d).
- ☐ 2. Continued examination under 37 CFR 1.114 does not apply to an application that was filed before June 8, 1995. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d).
- ☒ 3. Continued examination under 37 CFR 1.114 does not apply to an application in which the Office has not mailed at least one of an Office action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151.
- ☐ 4. The request was not filed before payment of the issue fee, and no petition under 37 CFR 1.313 was granted. If this application has not yet issued as a patent, applicant may wish to consider filing either a petition under 37 CFR 1.313 to withdraw this application from issue, or a continuing application under 37 CFR 1.53(b).
- ☐ 5. The request was not filed before abandonment of the application. The application was abandoned, or proceedings terminated on _____. Applicant may wish to consider filing a petition under 37 CFR 1.137 to revive this abandoned application.
- ☐ 6. The request was not accompanied by the fee set forth in 37 CFR 1.17(e) as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the Office action or notice of allowance continues to run from the mailing date of that action or notice.
- ☐ 7. The request was not accompanied by a submission as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the Office action or notice of allowance continues to run from the mailing date of that action or notice.

A copy of this notice MUST be returned with any reply.

Direct the reply and any questions about this notice to:

Sharon R. Moore

Examining Group

2600

(703) 306-2943

FORM PTO-2051 (Rev. 5/2000)

ROBIN, BLECKER & DALEY

330 Madison Avenue
New York, New York 10017-5001

FACSIMILE TRANSMITTAL SHEET

TO:	FROM:
Examiner Andy Christenser	Marylee Jenkins
COMPANY:	DATE:
United States Patent & Trademark Office	July 25, 2002
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER:
(703) 746-5735	11
PHONE NUMBER:	SENDER'S REFERENCE NUMBER:
	B208-346 DIV
RE:	YOUR REFERENCE NUMBER:
Petition and Request for Refund	09/437,694

☐ URGENT ☒ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ PLEASE RECYCLE

NOTES/COMMENTS:

We are forwarding herewith a Petition to Withdraw Request for Continued Examination and Three Month Extension of Time Request, Request for Refund, Notice of Improper RCE and Credit Card Payment Forms for Crediting Credit Card in the application of Kenichi Nagasawa et al, Serial No. 09/437,694 for SIGNAL RECORDING APPARATUS filed November 10, 1999 in Group 2615.

I hereby certify that this correspondence is being faxed to the United States Patent and Trademark Office to facsimile number (703) 746-5735 on the date shown below:

 MARYLEE JENKINS Signature	July 25, 2002 Date of Signature
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